IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 4543 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UNITED INDIA INSURANCE CO. LTD - Appellant(s)

Versus

GUNATIT CHANDUBHAI PATEL & 2 - Defendant(s)

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Appearance :

MR RAJNI H MEHTA for Appellant(s) : 1,
MR KL DAVE for Defendant(s) : 1,
None for Defendant(s) : 2 – 3.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 21/09/2007

ORAL JUDGMENT

1. **Admit.** Mr.Dave, learned Counsel waives service of notice for admission for the original claimant and with the consent of the learned Counsel appearing for the appellant as well as for the original claimant, the appeal is further taken up for final hearing. Moreover, in view of the agreement between the appellant as well as the original claimant and the order passed by this Court hereinafter the presence of the other parties to the proceedings may not be required.

2. The short facts of the case appear to be that on 25.5.2001, when the claimant was going on the Scooter bearing No.GJ-7-N-6242, at that time one Mahindra Ford Car No.GJ-7-R-1910 being driven in a rash and negligent manner, dashed with the Scooter and the claimant sustained injuries. The claim petition was filed being MACP No.2811/2001 before the Tribunal for recovery of the compensation of Rs.3 lac. The Tribunal after adjudication awarded the compensation of Rs.2,48,500/- with interest at the rate of 9% per annum and it is under these circumstances,

the present appeal before this Court by the Insurance Company.

3. Heard Mr.Parikh, learned Counsel for the appellant and Mr.Dave, learned Counsel for the original claimant.

4. It appears after hearing the learned Counsel for both the sides that there is no dispute on the other aspects of the quantum of awarding compensation, except the dispute on the aspects of applying the multiplier of 17 by the Tribunal. The learned Counsel appearing for both the sides have declared before the Court that their respective clients have no objection if the compensation awarded by the Tribunal is reduced by applying multiplier of 14, in place of 17. In view of the aforesaid agreement between the learned Counsel appearing for the main contesting appellant Insurance Company as well as the original claimant, if the multiplier of 14 is applied for awarding of the compensation towards future economic loss, the

amount of Rs.2,14,514/- will be required to reduced by Rs.37,800/- and, therefore, the net amount towards economic loss would be Rs.1,76,714/-. Further, as the claimant is also agreeable for the reduction of compensation for such purpose, no further discussion is required in this regard. Hence, the award passed by the Tribunal shall stand modified accordingly.

5. The amount of compensation awarded under the other heads is not disturbed since there is no challenge by the appellant for such purpose.

6. Hence, in view of the above, the award of the Tribunal shall stand modified by maintaining the compensation of Rs.2,10,700/- with the proportionate interest and cost as per the award of the Tribunal. The other part of the award shall remain the same on the aspects of investment as well as disbursement. The appeal is partly allowed to the aforesaid extent. Decree accordingly.

7. The learned Counsel for the appellant states that the appellant has deposited the full amount with interest and cost with the Tribunal as per the award of the Tribunal. In view of the present order passed by this Court today, the Tribunal will be required to refund the balance amount to the appellant, which may be effected within four weeks from the receipt of the order. The amount deposited, if not transmitted, shall be transmitted to the Tribunal.

21.9.2007 **(Jayant Patel, J.)**

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